

Introduced by Senator Negrete McLeod

February 26, 2009

An act to amend Sections 9875 and 9889.20 of, to amend, repeal, and add Sections 9884.8 and 9884.9 of, and to add Sections 9884.75 and 9884.76 to, the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as introduced, Negrete McLeod. Automotive repair: crash parts.

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and authorizes the director to adopt regulations to implement its provisions. The act requires all work done by an automotive repair dealer to be recorded on an invoice that describes all service work done and parts supplied. The act requires the invoice to include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. The act also requires this information to be provided to a customer in an itemized written estimate when an automotive repair dealer is doing auto body or collision repairs. Existing law requires the automotive repair dealer to obtain authorization from the customer before performing work and imposing charges. A violation of the act is a crime.

This bill would, commencing January 1, 2011, authorize the customer, as specified, to receive copies of invoices from the automotive repair dealer for all crash parts, as defined, installed for which the customer is charged in excess of \$50. The bill would require automotive repair

dealers, prior to providing these invoices, to remove the price paid for these crash parts and would specify that the failure of an automotive repair dealer to remove the prices does not constitute a violation of the act.

The bill would require the first page of the itemized written estimate to include a notice, as specified, stating that installing parts other than those described on the estimate without prior approval from the customer is unlawful and that the customer is entitled to receive copies of all invoices for each specified crash part. The bill would additionally require an automotive repair dealer to provide on the first page of the final invoice, a statement that installing parts other than those described on the estimate without prior approval from the customer is unlawful and that if the customer has requested copies of invoices, those copies are attached. The bill would make these provisions operative on January 1, 2011.

The bill would specify that, an automotive repair dealer who prepares an estimate, including replacement of a specified deployed airbag, who fails to repair and fully restore the airbag, as specified, is guilty of a misdemeanor punishable by a fine, imprisonment, or both.

Because a violation of the bill's provisions, except as specified, would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9875 of the Business and Professions
- 2 Code is amended to read:
- 3 9875. As used in this chapter, the following definitions shall
- 4 apply:
- 5 (a) "Insurer" includes an insurance company and any person
- 6 authorized to represent the insurer with respect to a claim.
- 7 (b) "Crash part" means any of the nonmechanical sheet metal
- 8 or plastic parts which generally constitute the exterior of a motor

1 vehicle, including inner and outer panels; and shall also include
2 the airbag in a motor vehicle's inflatable restraint system.

3 ~~(b)~~

4 (c) "Aftermarket crash part" means a replacement for any of
5 the nonmechanical sheet metal or plastic parts which generally
6 constitute the exterior of a motor vehicle, including inner and outer
7 panels crash part.

8 ~~(e)~~

9 (d) "Nonoriginal equipment manufacturer—(Non-OEM)
10 aftermarket crash part" means aftermarket crash parts not made
11 for or by the manufacturer of the motor vehicle.

12 SEC. 2. Section 9884.75 is added to the Business and
13 Professions Code, to read:

14 9884.75. (a) The customer, pursuant to Section 9884.9, may
15 choose to receive copies of invoices from the automotive repair
16 dealer for all crash parts installed for which the customer is charged
17 in excess of fifty dollars (\$50).

18 (b) (1) The automotive repair dealer, upon request by the
19 customer as described in Section 9884.9, shall provide copies of
20 invoices from the distributor, dealer, or manufacturer for all crash
21 parts installed for which the customer is charged in excess of fifty
22 dollars (\$50).

23 (2) The automotive repair dealer, prior to providing these parts
24 invoices, shall remove the price the automotive repair dealer paid
25 for the crash parts from the copies of the parts invoices.

26 (c) The failure of an automotive repair dealer to remove the
27 prices as required by subdivision (b) shall not constitute a violation
28 of this chapter as described in Section 9889.20.

29 (d) *This section shall become operative on January 1, 2011.*

30 SEC. 3. Section 9884.76 is added to the Business and
31 Professions Code, to read:

32 9884.76. Notwithstanding Section 9889.20, an automotive
33 repair dealer who prepares a written estimate for repairs pursuant
34 to Section 9884.9 that includes replacement of a deployed airbag
35 that is part of an inflatable restraint system and who fails to repair
36 and fully restore the airbag to original operating condition is guilty
37 of a misdemeanor punishable by a fine of five thousand dollars
38 (\$5,000) or by imprisonment in the county jail for one year or by
39 both that fine and imprisonment.

1 SEC. 4. Section 9884.8 of the Business and Professions Code
2 is amended to read:

3 9884.8. (a) All work done by an automotive repair dealer,
4 including all warranty work, shall be recorded on an invoice and
5 shall describe all service work done and parts supplied. Service
6 work and parts shall be listed separately on the invoice, which
7 shall also state separately the subtotal prices for service work and
8 for parts, not including sales tax, and shall state separately the sales
9 tax, if any, applicable to each. If any used, rebuilt, or reconditioned
10 parts are supplied, the invoice shall clearly state that fact. If a part
11 of a component system is composed of new and used, rebuilt or
12 reconditioned parts, that invoice shall clearly state that fact. The
13 invoice shall include a statement indicating whether any crash
14 parts are original equipment manufacturer crash parts or
15 nonoriginal equipment manufacturer aftermarket crash parts. One
16 copy of the invoice shall be given to the customer and one copy
17 shall be retained by the automotive repair dealer.

18 (b) *This section shall remain in effect only until January 1, 2011,*
19 *and as of that date is repealed, unless a later enacted statute, that*
20 *is enacted before January 1, 2011, deletes or extends that date.*

21 SEC. 5. Section 9884.8 is added to the Business and Professions
22 Code, to read:

23 9884.8. (a) All work done by an automotive repair dealer,
24 including all warranty work, shall be recorded on a repair invoice
25 and shall describe all service work done and parts installed. Service
26 work and parts shall be listed separately on the repair invoice,
27 which shall also state separately the subtotal prices for service
28 work and for parts, not including sales tax, and shall state
29 separately the sales tax, if any, applicable to each. If any used,
30 rebuilt, or reconditioned parts are installed, the invoice shall clearly
31 state that fact. If a part of a component system is composed of new
32 and used, rebuilt, or reconditioned parts, that invoice shall clearly
33 state that fact. The invoice shall include a statement indicating
34 whether any crash parts are original equipment manufacturer crash
35 parts or nonoriginal equipment manufacturer aftermarket crash
36 parts. One copy of the invoice shall be given to the customer and
37 one copy shall be retained by the automotive repair dealer.

38 (b) The first page of the final repair invoice shall contain the
39 following statement in 12-point boldface type or larger enclosed
40 in a box:

1
2 “INSTALLING A PART, OTHER THAN A PART
3 DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT
4 PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.
5 IF, ON THE WRITTEN ESTIMATE, YOU CHOSE TO RECEIVE
6 COPIES OF INVOICES FOR CRASH PARTS, INCLUDING
7 AN AIRBAG, INSTALLED ON YOUR VEHICLE, THESE
8 PARTS INVOICES ARE ATTACHED TO THIS FINAL REPAIR
9 INVOICE.”

10
11 (c) This section shall become operative on January 1, 2011.

12 SEC. 6. Section 9884.9 of the Business and Professions Code
13 is amended to read:

14 9884.9. (a) The automotive repair dealer shall give to the
15 customer a written estimated price for labor and parts necessary
16 for a specific job. No work shall be done and no charges shall
17 accrue before authorization to proceed is obtained from the
18 customer. No charge shall be made for work done or parts supplied
19 in excess of the estimated price without the oral or written consent
20 of the customer that shall be obtained at some time after it is
21 determined that the estimated price is insufficient and before the
22 work not estimated is done or the parts not estimated are supplied.
23 Written consent or authorization for an increase in the original
24 estimated price may be provided by electronic mail or facsimile
25 transmission from the customer. The bureau may specify in
26 regulation the procedures to be followed by an automotive repair
27 dealer if an authorization or consent for an increase in the original
28 estimated price is provided by electronic mail or facsimile
29 transmission. If that consent is oral, the dealer shall make a notation
30 on the work order of the date, time, name of person authorizing
31 the additional repairs, and telephone number called, if any, together
32 with a specification of the additional parts and labor and the total
33 additional cost, and shall do either of the following:

34 (1) Make a notation on the invoice of the same facts set forth
35 in the notation on the work order.

36 (2) Upon completion of the repairs, obtain the customer's
37 signature or initials to an acknowledgment of notice and consent,
38 if there is an oral consent of the customer to additional repairs, in
39 the following language:

1 “I acknowledge notice and oral approval of an increase in the
2 original estimated price.

3 _____
4 (signature or initials)”
5

6 Nothing in this section shall be construed as requiring an
7 automotive repair dealer to give a written estimated price if the
8 dealer does not agree to perform the requested repair.

9 (b) The automotive repair dealer shall include with the written
10 estimated price a statement of any automotive repair service that,
11 if required to be done, will be done by someone other than the
12 dealer or his or her employees. No service shall be done by other
13 than the dealer or his or her employees without the consent of the
14 customer, unless the customer cannot reasonably be notified. The
15 dealer shall be responsible, in any case, for any service in the same
16 manner as if the dealer or his or her employees had done the
17 service.

18 (c) In addition to subdivisions (a) and (b), an automotive repair
19 dealer, when doing auto body or collision repairs, shall provide
20 an itemized written estimate for all parts and labor to the customer.
21 The estimate shall describe labor and parts separately and shall
22 identify each part, indicating whether the replacement part is new,
23 used, rebuilt, or reconditioned. Each crash part shall be identified
24 on the written estimate and the written estimate shall indicate
25 whether the crash part is an original equipment manufacturer crash
26 part or a nonoriginal equipment manufacturer aftermarket crash
27 part.

28 (d) A customer may designate another person to authorize work
29 or parts supplied in excess of the estimated price, if the designation
30 is made in writing at the time that the initial authorization to
31 proceed is signed by the customer. The bureau may specify in
32 regulation the form and content of a designation and the procedures
33 to be followed by the automotive repair dealer in recording the
34 designation. For the purposes of this section, a designee shall not
35 be the automotive repair dealer providing repair services or an
36 insurer involved in a claim that includes the motor vehicle being
37 repaired, or an employee or agent or a person acting on behalf of
38 the dealer or insurer.

(e) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 7. Section 9884.9 is added to the Business and Professions Code, to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts installed in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are installed. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the repair invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by anyone other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The written estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part. In all instances, the first page of the written estimate shall contain a notice with the following information in 12-point boldface type or larger enclosed in a box:

“INSTALLING A PART, OTHER THAN A PART DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.

YOU ARE ENTITLED TO RECEIVE COPIES OF ALL PARTS INVOICES FOR EACH CRASH PART INSTALLED ON YOUR VEHICLE FOR WHICH YOU ARE CHARGED IN EXCESS OF FIFTY DOLLARS (\$50) (BUSINESS AND PROFESSIONS CODE SECTION 9884.75).

YOU MUST CIRCLE AND INITIAL ONE OF THE FOLLOWING:

YES, I WANT TO RECEIVE COPIES OF THE PARTS INVOICES.

NO, I DO NOT WANT TO RECEIVE COPIES OF THE INVOICES.”

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation

1 is made in writing at the time that the initial authorization to
2 proceed is signed by the customer. The bureau may specify in
3 regulation the form and content of a designation and the procedures
4 to be followed by the automotive repair dealer in recording the
5 designation. For the purposes of this section, a designee shall not
6 be the automotive repair dealer providing repair services or an
7 insurer involved in a claim that includes the motor vehicle being
8 repaired, or an employee or agent or a person acting on behalf of
9 the dealer or insurer.

10 (e) This section shall become operative on January 1, 2011.

11 SEC. 8. Section 9889.20 of the Business and Professions Code
12 is amended to read:

13 9889.20. Except as otherwise provided in Sections 9884.75,
14 9884.76, and 9889.21 and ~~9889.48~~, any person who fails to comply
15 in any respect with the provisions of this chapter is guilty of a
16 misdemeanor and punishable by a fine not exceeding one thousand
17 dollars (\$1,000), or by imprisonment not exceeding six months,
18 or by both such fine and imprisonment.

19 SEC. 9. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.